

REMARKS

Favorable reconsideration is respectfully requested.

The claims are 10 to 14.

Claims 10 to 14 have been rejected under 35 U.S.C. 103(a) as being obvious over Oomori et al. (U.S. 6,387,587) in view of Yoshimoto et al. (EP 0 540 032 A1).

This rejection is respectfully traversed.

As the Official Action notes, Oomori '587 constitutes prior art only under 35 U.S.C. 102(e).

This reference is not available because, as pointed out in 35 U.S.C. 103(c):

Subject matter developed by another person which qualifies as prior art only under one or more of subsections (e), (f) and (g) § 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

A the time that the present invention was made, it was assigned to Tokyo Ohka Kogyo Company, Ltd. as evidenced by the Assignment recorded on August 18, 1999 at Reel/Frame 010190/0983-0985.

Accordingly, the rejection is untenable and should be withdrawn.

Further, claims 10 to 14 have been rejected under 35 U.S.C. 103(a) as being obvious over Oomori et al. (U.S. 6,255,041) in view of Yoshimoto et al. (EP 0 540 032 A1) and Suwa et al. (U.S. 6,187,504).

This rejection is also respectfully traversed.

Oomori '041, as noted in the Official Action, is prior art only under 35 U.S.C. 102(e) and at the time of the present invention was made, was commonly assigned to Tokyo Ohka Kogyo Company, Ltd., as discussed above.

Accordingly, this rejection is untenable and should be withdrawn.

Claims 10 to 14 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 3, 13 and 14 of Oomori et al. (U.S. 6,387,587) in view of Yoshimoto et al. (0 540 032 A1).

Further, claims 10 to 14 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5 and 6 of U.S. 6,255,041 in view of Yoshimoto et al. (EP 0 540 032 A1) and Suwa et al. (U.S. 6,187,504).

In reply, there is submitted herewith a Terminal Disclaimer which disclaims the terminal portion of any patent maturing from the present application which extends beyond the expiration date of the commonly assigned Oomori '041 and '587 patents.

Accordingly, these rejections on double patenting should be withdrawn.


No further issues remaining, allowance of this application is respectfully requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact undersigned at the telephone number below.

Respectfully submitted,

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